



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201201019

OCT 11 2011

Uniform Issue List: 408.03-00

T'EP'RA'T2

Legend:

Taxpayer A = *****
IRA X = *****
Amount 1 = *****
Date 1 = *****
Date 2 = *****

Dear *****:

This is in response to your ruling request dated March 28, 2011, as supplemented by correspondence dated June 9, 2011 and July 27, 2011, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code"). Taxpayer asserts that the failure to accomplish the rollover within the 60-day period described by section 408(d)(3) of the Code was due to his medical condition which impaired his ability to redeposit funds into IRA X.

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A, age [redacted], represents that he withdrew Amount 1 on Date 1 from IRA X. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d) of the Code resulted from his illness and hospitalization during the 60 day period.

Taxpayer A represents that he was the owner of IRA X, a qualified individual retirement arrangement ("IRA") established and maintained under the rules of section 408 of the Code. Taxpayer A represents that on Date 1 he withdrew a distribution of Amount 1 from IRA X. Taxpayer A asserts that he intended to put the funds back into the IRA within 60 days using funds he expected to receive the next month. During the 60-day period after the withdrawal, he became very ill, was hospitalized for a significant portion of the period, and was treated for cancer. Taxpayer A deposited Amount 1 into IRA X on Date 2, 10 days after the 60-day period.

Based on the above facts and representations, Taxpayer requests a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution from Account A.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A's authorized representative is consistent with Taxpayer A's assertion that his failure to accomplish a timely rollover was due to medical conditions which impaired his ability to re-deposit Amount 1 into IRA X.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution from Account A. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, were met with respect to Taxpayer A's deposit of Amount 1 into IRA X on Date 2, such deposit will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

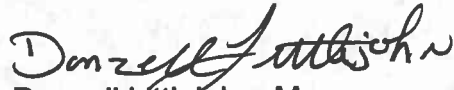
This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

201201019

If you wish to inquire about this ruling, please contact ***** (Government I.D. Number 31-08979) at (***) ***-****. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely,



Donzell Littlejohn, Manager
Employee Plans Technical Group 2

Enclosures:

- ▶ Deleted copy of ruling letter
- ▶ Notice of Intention to Disclose

CC:

